

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Richard I. Rowland)	File No. EB-00-TP-377
)	
Longwood, FL)	NAL/Acct. No.: 20013270-0001

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: October 12, 2000

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Richard I. Rowland apparently violated Section 301 of the Communications Act of 1934 ("Act"), as amended,¹ by operating a broadcast radio station without a license issued by the Federal Communications Commission. We conclude that Richard I. Rowland is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On May 15, 2000, the Commission's Tampa District Office received a complaint from a resident in the Winter Springs, Florida area, asserting that a radio station was operating on the unauthorized frequency of 97.1 MHz.

3. On June 13, 2000, agents from the Commission's Tampa Office observed radio transmissions on 97.1 MHz. The agents determined that the source of the transmissions was a ground plane antenna mounted on a pole next to a recreational vehicle (RV) parked inside the premises of Mr. Richard I. Rowland's residence located at 445 E. Martin Avenue, Longwood, FL.

4. On June 15, 2000, the Commission's Tampa Office issued to a warning letter to Mr. Rowland for operation of a radio station in violation of Section 301 of the Act. On a letter dated June 20, 2000, Mr. Rowland responded to the warning letter issued by the Tampa Office. In his response Mr. Rowland questioned the legal authority of the United States Code. The Tampa Office responded to this letter advising Mr. Rowland again that he was in violation and must discontinue the operation immediately.

5. On September 13, 2000, agents from the Commission's Tampa Office observed radio transmissions on 97.1 MHz. The agents again determined that the source of the transmissions was a ground plane antenna mounted on a pole next to a recreational vehicle (RV) parked inside the premises of Mr. Richard I. Rowland's residence located at 445 E. Martin Avenue, Longwood, FL.

¹ 47 U.S.C. § 301.

III. DISCUSSION

6. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy of communications or signals by radio within the United States except under and in accordance with the Act and with a license.²

7. Based on the evidence before us, we find that on June 13, and September 13, 2000, Richard I. Rowland operated radio transmission apparatus without a Commission authorization in repeated³ and willfull⁴ violation of Section 301 of the Act.

8. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* ("Forfeiture Policy Statement"), the base forfeiture amounts are \$10,000 for unlicensed operation.⁵ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Applying the *Forfeiture Policy Statement* and statutory factors to the instant case, a \$10,000 forfeiture is warranted.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁸ Richard I. Rowland is hereby NOTIFIED of his APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for violating Section 301 of the Act.⁹

² 47 U.S.C. § 301

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ 12 FCC Rcd 17087 (1997), *recon. denied*, FCC 99-407 (rel. December 28, 1999).

⁶ 47 U.S.C. § 503(b)(2)(D). See also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01 (discussion of upward and downward adjustment factors).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁹ 47 U.S.C. § 301

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,¹⁰ within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Richard I. Rowland SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 20013270-0001.

12. The response if any must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – TPSD, NAL/Acct. No. 20013270-0001, and must include the NAL/Acct. No.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.¹¹

15. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Richard I. Rowland at 445 E. Marvin Avenue, Longwood, FL 32750.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director, Tampa Office, Enforcement Bureau

¹⁰ 47 C.F.R. § 1.80.

¹¹ See 47 C.F.R. § 1.1914.